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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,245	11/14/2003	Timothy Michael Rooney	DN2003187	2475

27280 7590 06/14/2005

THE GOODYEAR TIRE & RUBBER COMPANY  
INTELLECTUAL PROPERTY DEPARTMENT 823  
1144 EAST MARKET STREET  
AKRON, OH 44316-0001

EXAMINER
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MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/714,245

Applicant(s)

ROONEY ET AL.

Examiner

Steven D. Maki

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1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>040805, 111403</u> . | 6) <input type="checkbox"/> Other: ____  |

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if claim 8 requires a height of 30% of the non-skid depth or a height less than or equal to 30% of the non-skid depth.

- 3) Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 9 broadens claim 1 by including 50%.

- 4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Rooney

6) **Claims 1-2, 4-6, 8-10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rooney 774 (US 6401774).**

The claimed elongated pads read on pads 72, which a radial height X less than the lugs and a base width Z at least 50% of the distance Y (the width at the bottom of the groove). As to the pads extending in a shoulder region, see figure 3.

Allison et al

7) **Claims 1-2, 7, 8, 9, 10, 12, 13 are rejected under 35 U.S.C. 102(a, (e) as being anticipated by Allison et al (US 2003/0041939).**

The claimed elongated pads read on first lugs 13.

Shontz

8) **Claims 1-2, 4-6, 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shontz (BFGoodrich Mud-Terrain T/A KM) in view of Rooney 774 (US 6401774) and optionally Allison et al (US 2003/004939).**

Shontz shows a pneumatic mud tire (off-road tire) having a tread comprising center lugs, shoulder lugs and lateral grooves, and a "low height tread element" in the lateral groove between circumferentially adjacent shoulder lugs. See photographs, especially the second from the top on page 1 and the bottom left on page 2. The "low

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height tread element" in the tire shown by Shontz extends into a "shoulder region", but does not have a base width greater than 50% of the lateral groove width.

As to claim 1, it would have been obvious to one of ordinary skill in the art to provide the "low height tread element" in the off-road tire shown by Shontz as an elongated pad with a base width greater than 50% of the lateral groove width in view of (1) Rooney 774's suggestion to configure a "low height tread element" of an off-road tire as an elongated pad having a base width Z greater than 50% of a distance Y between tread lugs so that the off-road tire has structure for preventing puncture and deflecting debris and optionally (2) Allison et al's suggestion to arrange "low height and wide tread elements" 13 between a pair of circumferentially adjacent tread lugs to deflect debris away from the sidewall and provide increased traction.

As to claim 2, the tire shown by Shontz has a low height tread element in every lateral groove.

As to claims 4-6, 8-9 and 12-14, the claimed pad limitations are suggested by Rooney 774.

As to claim 10, the low height tread elements of the tire shown by Shontz extend into the shoulder region.

**9) Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shontz in view of Rooney 774 and optionally Allison et al as applied above and further in view of McMannis (US 6533007), Guidry (US D469,737) or Floria (US D202254).**

As to claim 3, it would have been obvious to provide the low height tread elements with different radial lengths as claimed in view of the suggestion from McMannis, Guidry or Floria to use varying length structures in a shoulder region of a tire. See figures.

**10) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shontz in view of Rooney 774 and optionally Allison et al as applied above and further in view of Rooney 926 (US 2004/0123926) or French 341 (FR 1163341).**

As to claim 7, it would have been obvious to provide the low height tread elements with non-constant width in view of (1) Rooney 926's suggestion to provide elongated pads with non-constant width or (2) French 341's suggestion to provide a low height tread element with non-constant width (figure 8).

**11) Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shontz in view of Rooney and optionally Allison et al as applied above and further in view of BFGoodrich Tires Introduces Krawler T/A or the admitted prior art (paragraph 5 of specification).**

As to claim 11, it would have been obvious to provide the low height tread elements in every other groove since (1) BFGoodrich Tires Introduces Krawler T/A shows an off-road tire having a low height tread element between every other pair of shoulder lugs or (2) the admitted prior art teaches that every other shoulder groove of the BFGoodrich Krawler have a very thin rib at the base of the groove whereas every shoulder groove of the BFGoodrich Mud-Terrain have a very thin rib at the base of the groove.


Remarks

- 12) The remaining references are of interest.
- 13) No claim is allowed.
- 14) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
June 10, 2005

  
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PRIMARY EXAMINER  
~~GROUP 1300~~  
AU 1733  
6-10-05